

FIRST REGULAR SESSION  
[P E R F E C T E D]  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 297**  
**97TH GENERAL ASSEMBLY**

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Reported from the Committee on Commerce, Consumer Protection, Energy and the Environment, March 28, 2013, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 297, adopted April 8, 2013.

Taken up for Perfection April 8, 2013. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

1352S.05P

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**AN ACT**

To repeal sections 249.645, 393.320, 393.760, 393.1000, and 393.1003, RSMo, and to enact in lieu thereof seven new sections relating to ratemaking for water utilities.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 249.645, 393.320, 393.760, 393.1000, and 393.1003, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 67.312, 249.424, 249.645, 393.320, 393.760, 393.1000, and 393.1003, to read as follows:

**67.312. 1. Notwithstanding any law to the contrary, in any county with a charter form of government and with more than three hundred thousand but with fewer than four hundred fifty thousand inhabitants, if any water supply district contracts with a for profit management company focusing on contract management and operations, the water supply district shall not charge or collect from its customers any increase in rates, charges, or fees, including but not limited to water rates, testing fees, inspection fees, administrative fees, service charges, minimum bill charges, flat rate charges, customer charges, billing charges, attendance fees, primacy fees, and user fees without a majority vote of the qualified voters of the water supply district voting thereon on any public election day in August or November. If a majority of the votes cast on the question by the**

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

14 qualified voters voting thereon are opposed to the question, then the  
15 question shall not be resubmitted under this section sooner than twelve  
16 months from the date of the last submission opposed by voters. Any  
17 actual charges or fees by a state or local governmental entity not  
18 associated in any way with the water supply district may be passed on  
19 to their customers without a vote.

20       2. In any county with a charter form of government and with  
21 more than three hundred thousand but with fewer than four hundred  
22 fifty thousand inhabitants, if any water supply district does not  
23 actually process or treat sewage or wastewater but pays another  
24 governmental entity for providing such service, the water supply  
25 district shall not charge and collect from its customers a premium, fee,  
26 tax, assessment, or other charge however denominated more than the  
27 rate it actually pays to such other entity without a majority vote of the  
28 qualified voters of the water supply district voting thereon on any  
29 public election day in August or November. If a majority of the votes  
30 cast on the question by the qualified voters voting thereon are opposed  
31 to the question, then the question shall not be resubmitted under this  
32 section sooner than twelve months from the date of the last submission  
33 opposed by voters.

249.424. 1. If approved by a majority of the voters voting on the  
2 proposal, and upon the adoption of a resolution by a majority of the  
3 sewer district's board of trustees, any sewer district established and  
4 organized under this chapter, may levy and impose annually a fee not  
5 to exceed fifty dollars per year within its boundaries for the repair of  
6 lateral sewer service lines on or connecting residential property having  
7 six or less dwelling units, except that the fee shall not be imposed on  
8 property in the sewer district that is located within any city, town,  
9 village, or unincorporated areas of a county that already imposes a fee  
10 under section 249.422. Any sewer district that establishes or increases  
11 the fee used to repair any portion of the lateral sewer service line shall  
12 include all defective portions of the lateral sewer service line from the  
13 residential structure to its connection with the public sewer system  
14 line. Notwithstanding any provision of chapter 448, the fee imposed  
15 pursuant to this chapter shall be imposed upon condominiums that  
16 have six or fewer condominium units per building and each  
17 condominium unit shall be responsible for its proportionate share of

18 any fee charged pursuant to this chapter, and in addition, any  
19 condominium unit shall, if determined to be responsible for and served  
20 by its own individual lateral sewer line, be treated as an individual  
21 residence regardless of the number of units in the development. It  
22 shall be the responsibility of the condominium owner or condominium  
23 association who are of the opinion that they are not properly classified  
24 as provided in this section to notify the sewer district.

25       2. The question shall be submitted to the registered voters who  
26 reside within the boundaries of the sewer district, excluding any voters  
27 who live within the boundaries of any city, town, village, or  
28 unincorporated areas of a county that already imposes a fee under  
29 section 249.422. The question shall be submitted in substantially the  
30 following form:

31       Shall a maximum charge not to exceed fifty dollars be assessed  
32 annually on residential property for each lateral sewer service line  
33 serving six or less dwelling units on that property and condominiums  
34 that have six or less condominium units per building and any  
35 condominium responsible for its own individual lateral sewer line to  
36 provide funds to pay the cost of certain repairs of those lateral sewer  
37 service lines which may be billed quarterly or annually?

38                               ☐ YES                               ☐ NO

39       3. If a majority of the voters voting thereon approve the proposal  
40 provided for in subsection 2 of this section, any sewer district  
41 established and organized under this chapter may, upon the adoption  
42 of a resolution by a majority of the sewer district's board of trustees,  
43 collect and administer such fee in order to protect the public health,  
44 welfare, peace, and safety. The funds collected shall be deposited in a  
45 special account to be used solely for the purpose of paying for all or a  
46 portion of the costs reasonably associated with and necessary to  
47 administer and carry out the defective lateral sewer service line  
48 repairs. All interest generated on deposited funds shall be accrued to  
49 the special account established for the repair of lateral sewer service  
50 lines.

51       4. The collector in any county containing a sewer district that  
52 adopts a resolution under this section to collect a fee for the repair of  
53 lateral sewer service lines may add such fee to the general tax levy bills

54 of property owners within the boundaries of the sewer district,  
55 excluding property located in any city, town, village, or unincorporated  
56 areas of the county that already imposes a fee under section  
57 249.422. All revenues received on such combined bill for the purpose  
58 of providing for the repair of lateral sewer service lines shall be  
59 separated from all other revenues so collected and credited to the  
60 special account established by the sewer district under subsection 3 of  
61 this section.

62       5. If a city, town, village, or county, which is within the sewer  
63 district and imposed a fee under section 249.422, later rescinds such fee  
64 after voters authorized the fee provided under this section, the sewer  
65 district may submit the question provided under subsection 2 of this  
66 section to the registered voters of such city, town, village, or county  
67 that have property within the boundaries of the sewer district. If a  
68 majority of votes voting on the proposal approve, the sewer district  
69 may levy and impose the fee as provided under this section on property  
70 within such city, town, village, or county.

249.645. 1. Any public sewer district created under the provisions of  
2 sections 249.430 to 249.660 or established pursuant to article VI, section 30(a) of  
3 the Missouri Constitution may establish, make and collect charges for sewage  
4 services, including tap-on fees. The charges may be set as a flat fee or based  
5 upon the amount of water supplied to the premises and shall be in addition to  
6 those charges which may be levied and collected for maintenance, repair and  
7 administration expenses as provided for in section 249.640. Any private water  
8 company, public water supply district, or municipality supplying water to the  
9 premises located within a sewer district shall, upon reasonable request, make  
10 available to such sewer district its records and books so that such sewer district  
11 may obtain therefrom such data as may be necessary to calculate the charges for  
12 sewer service. Prior to establishing any such sewer charges, public hearings shall  
13 be held thereon and at least thirty days' notice shall be given thereof.

14       2. Any charges made under this section shall be due at such time or  
15 times as specified by the county commission, and shall, if not paid by the due  
16 date, become delinquent and shall bear interest from the date of delinquency  
17 until paid. If such charges become delinquent, they shall be a lien upon the land  
18 charged, upon the county commission filing with the recorder of deeds in the  
19 county where the land is situated a notice of delinquency. The county commission

20 shall file with the recorder of deeds a similar notice when the delinquent  
21 amounts, plus interest and any recording fees or attorney's fees, have been paid  
22 in full. The lien hereby created may be enforced by suit or foreclosure.

23 3. Should a lien be placed upon a customer's property by a public sewer  
24 district for unpaid sewer charges, the lien shall have priority as and be enforced  
25 in the same manner as taxes levied for state and county purposes.

26 4. Should the sewer charges remain unpaid for a period in excess of three  
27 months, the district, after notice to the customer [by certified mail], shall have  
28 the authority at its discretion to disconnect the customer's sewer line from the  
29 district's line or request any private water company, public water supply district,  
30 or any municipality supplying water to the premises to discontinue service to the  
31 customer until such time as the sewer charges and all related costs of this section  
32 are paid.

393.320. 1. As used in this section, the following terms mean:

2 (1) "Large water public utility", a public utility that regularly provides  
3 water service or sewer service to more than eight thousand customer connections  
4 and that provides safe and adequate service but shall not include a sewer district  
5 established under Section 30(a), Article VI of the Missouri Constitution, sewer  
6 districts established under the provisions of chapter 204, 249, or 250, public  
7 water supply districts established under the provisions of chapter 247, or  
8 municipalities that own water or sewer systems;

9 (2) "Small water utility", a public utility that regularly provides water  
10 service or sewer service to eight thousand or fewer customer connections; a water  
11 district established under the provisions of chapter 247 that regularly provides  
12 water or sewer service to eight thousand or fewer customer connections; a sewer  
13 district established under the provisions of chapter 204, 249, or 250 that regularly  
14 provides sewer service to eight thousand or fewer customer connections; or a  
15 water system or sewer system owned by a municipality that regularly provides  
16 water service or sewer service to eight thousand or fewer customer connections;  
17 and all other entities that regularly provide water service or sewer service to  
18 eight thousand or fewer customer connections.

19 2. The procedures contained in this section may be chosen by a large  
20 water public utility, and if so chosen shall be used by the public service  
21 commission to establish the ratemaking rate base of a small water utility during  
22 an acquisition.

23 3. (1) An appraisal shall be performed by three appraisers. One

24 appraiser shall be appointed by the small water utility, one appraiser shall be  
25 appointed by the large water public utility, and the third appraiser shall be  
26 appointed by the two appraisers so appointed. Each of the appraisers shall be a  
27 disinterested person who is a certified general appraiser under chapter 339.

28 (2) The appraisers shall:

29 (a) Jointly prepare an appraisal of the fair market value of the water  
30 system and/or sewer system. The determination of fair market value shall be in  
31 accordance with Missouri law and with the Uniform Standards of Professional  
32 Appraisal Practice; and

33 (b) Return their appraisal, in writing, to the small water utility and large  
34 water public utility in a reasonable and timely manner.

35 (3) If all three appraisers cannot agree as to the appraised value, the  
36 appraisal, when signed by two of the appraisers, constitutes a good and valid  
37 appraisal.

38 4. Nothing in this section shall prohibit a party from declining to proceed  
39 with an acquisition or be deemed as establishing the final purchase price of an  
40 acquisition.

41 5. (1) The lesser of the purchase price or the appraised value, together  
42 with the reasonable and prudent transaction, closing, and transition costs  
43 incurred by the large water public utility, shall constitute the ratemaking rate  
44 base for the small water utility as acquired by the acquiring large water public  
45 utility; provided, however, that if the small water utility is a public utility subject  
46 to chapter 386 and the small water utility completed a rate case prior to the  
47 acquisition, the public service commission may select as the ratemaking rate base  
48 for the small water utility as acquired by the acquiring large water public utility  
49 a ratemaking rate base in between:

50 (a) The lesser of the purchase price or the appraised value, together with  
51 the reasonable and prudent transaction, closing, and transition costs incurred by  
52 the large water public utility unless such transaction, closing, and transition  
53 costs are elsewhere recoverable in rates; and

54 (b) The ratemaking rate base of the small water utility as ordered by the  
55 public service commission in the small water utility's last previous rate case as  
56 adjusted by improvements and depreciation reserve since the previous rate case  
57 together with the transaction, closing, and transition costs incurred by the large  
58 water public utility unless such transaction, closing, and transition costs are  
59 elsewhere recoverable in rates. If the small water utility and large water public

60 utility proceed with the sale, any past-due fees due to the state from the small  
61 water utility or its customers under chapter 640 or 644 shall be resolved prior to  
62 the transfer of ownership or the liability for such past-due fees becomes the  
63 responsibility of the large water public utility. Such fees shall not be included in  
64 the large water public utility's rate base.

65 (2) The public service commission shall issue its decision establishing the  
66 ratemaking rate base of the small water utility in its order approving the  
67 acquisition.

68 **6. Upon the date of the acquisition of a small water utility by a**  
69 **large water public utility, whether or not the procedures for**  
70 **establishing ratemaking rate base provided by this section have been**  
71 **utilized, the small water utility shall, for ratemaking purposes, become**  
72 **part of an existing service area, as defined by the public service**  
73 **commission, of the acquiring large water public utility that is either**  
74 **contiguous to the small water utility, the closest geographically to the**  
75 **small water utility, or best suited due to operational or other**  
76 **factors. This consolidation shall be approved by the public service**  
77 **commission in its order approving the acquisition.**

78 **7.** Any new permit issued pursuant to chapters 640 and 644, when a small  
79 water utility is acquired by a large water public utility, shall include a plan to  
80 resolve all outstanding permit compliance issues. After the transfer of ownership,  
81 the acquiring large public water utility shall continue providing service to all  
82 customers that were served by the small water utility at the time of sale.

83 **[7.] 8.** This section is intended for the specific and unique purpose of  
84 determining the ratemaking rate base of small water utilities and shall be  
85 exclusively applied to large water public utilities in the acquisition of a small  
86 water utility. This section is not intended to apply beyond its specific purpose  
87 and shall not be construed in any manner to apply to electric corporations,  
88 natural gas corporations, or any other utility regulated by the public service  
89 commission.

393.760. 1. Each participating municipality shall, in accordance with the  
2 provisions of chapter 115, order an election to be held whereby the qualified  
3 electors in such participating municipality shall approve or disapprove the  
4 issuance of its bonds to finance its individual interest in the project. The  
5 participating municipality may not order such an election until it has received a  
6 report from an independent consulting engineer as defined in section 327.181 for

7 the purpose of determining the economic and engineering feasibility of any  
8 proposed project the costs of which are to be financed through the issuance of  
9 bonds. The report of the consulting engineer shall be provided to and approved  
10 by the legislative body and executive of each such participating municipality and  
11 such report shall be open to public inspection and shall be the subject of a public  
12 hearing in each participating municipality. Notice of the time and place of each  
13 such hearing shall be published in a daily newspaper of general circulation within  
14 each such participating municipality. Interested parties may appear and fully  
15 participate in such hearings.

16 2. Each participating municipality shall notify the election authority or  
17 authorities responsible for conducting elections within such participating  
18 municipality in accordance with chapter 115.

19 3. The question shall be submitted in substantially the following form:

20 OFFICIAL BALLOT

21 Shall (name of participating municipality) issue its (type) revenue bonds  
22 in an amount not to exceed \$..... for the purpose of paying its share of  
23 the cost of participating in (describe project)?

24 ☐ YES ☐ NO

25 If you are in favor of the resolution, place an "X" in the box opposite "Yes".

26 If you are opposed to the question, place an "X" in the box opposite "No".

27 4. If the issuance of the bonds is approved by at least a majority of the  
28 qualified electors voting thereon in the participating municipality, the  
29 participating municipality shall declare the result of the election and cause the  
30 bonds to be issued.

31 5. Each participating municipality shall bear all expenses associated with  
32 the elections in such participating municipality.

33 6. In [lieu of the public voting procedure set forth in subsections 1 to 5 of  
34 this section, in] the case of purchasing or leasing, constructing, installing, and  
35 operating reservoirs, pipelines, wells, check dams, pumping stations, water  
36 purification plants, and other facilities for the production, wholesale distribution,  
37 and utilization of water, the commission may provide for a vote by the governing  
38 body of each contracting municipality. Such vote shall require the approval of  
39 three-quarters of all governing bodies of the contracting municipalities. The  
40 commission may not order such a vote until it has engaged and received a report  
41 from an independent consulting engineer as defined in section 327.181 for the  
42 purpose of determining the economic and engineering feasibility of any proposed



43 project the costs of which are to be financed through the issuance of bonds. The  
44 report of the consulting engineer shall be provided to and approved by the  
45 legislative body and executive of each contracting municipality participating in  
46 the project and such report shall be open to public inspection and shall be the  
47 subject of a public hearing in each municipality participating in the  
48 project. Notice of the time and place of each such hearing shall be published in  
49 a daily newspaper of general circulation within each municipality. Interested  
50 parties may appear and fully participate in such hearings. Each contracting  
51 municipality shall vote by ordinance or resolution and such ordinance or  
52 resolution shall approve the issuance of revenue bonds by the joint municipal  
53 water commission in an amount not to exceed a specified amount.

393.1000. As used in sections 393.1000 to 393.1006, the following terms  
2 mean:

3 (1) "Appropriate pretax revenues", the revenues necessary to produce net  
4 operating income equal to:

5 (a) The water **or sewer** corporation's weighted cost of capital multiplied  
6 by the net original cost of eligible infrastructure system replacements, including  
7 recognition of accumulated deferred income taxes and accumulated depreciation  
8 associated with eligible infrastructure system replacements which are included  
9 in a currently effective ISRS; and

10 (b) Recover state, federal, and local income or excise taxes applicable to  
11 such income; and

12 (c) Recover all other ISRS costs;

13 (2) **"Base revenues", revenues produced through a general rate**  
14 **case proceeding;**

15 (3) "Commission", the Missouri public service commission;

16 [(3)] (4) "Eligible infrastructure system replacements"[,]:

17 (a) Water **or sewer** utility plant projects that:

18 [(a)] a. Replace or extend the useful life of existing infrastructure;

19 [(b)] b. Are in service and used and useful;

20 [(c)] c. Do not increase revenues by directly connecting the infrastructure  
21 replacement to new customers; and

22 [(d)] d. Were not included in the water **or sewer** corporation's rate base  
23 in its most recent general rate case; **or**

24 (b) **Energy efficiency projects that:**

25 a. **Are in service and used and useful;**

26           **b. Do not increase revenues by directly connecting the**  
27 **infrastructure replacements to new customers; and**

28           **c. Were not included in the water or sewer corporation's rate**  
29 **base in its most recent general rate case;**

30           **[(4)] (5) "Energy efficiency", measures that reduce the amount of**  
31 **energy required to achieve a given end result;**

32           **(6) "ISRS", infrastructure system replacement surcharge;**

33           **[(5)] (7) "ISRS costs", depreciation expenses and property taxes that will**  
34 **be due within twelve months of the ISRS filing. Depreciation expense on**  
35 **eligible infrastructure system capital investments shall not begin to be**  
36 **recorded on a utility's books until it is included in ISRS revenues or**  
37 **base revenues;**

38           **[(6)] (8) "ISRS revenues", revenues produced through an ISRS, exclusive**  
39 **of revenues from all other rates and charges;**

40           **(9) "Sewer corporation", every corporation, company, association,**  
41 **joint stock company or association, partnership, and person, their**  
42 **lessees, trustees, or receivers appointed by any court whatsoever,**  
43 **owning, operating, controlling, or managing any plant or property, for**  
44 **the collection, carriage, treatment, or disposal of sewage anywhere**  
45 **within the state for gain;**

46           **[(7)] (10) "Water corporation", every corporation, company, association,**  
47 **joint stock company or association, partnership, and person, their lessees,**  
48 **trustees, or receivers appointed by any court whatsoever, owning, operating,**  
49 **controlling, or managing any plant or property, dam or water supply, canal, or**  
50 **power station, distributing or selling for distribution, or selling or supplying for**  
51 **gain any water [to more than ten thousand customers];**

52           **[(8)] (11) "Water or sewer utility plant projects" may consist only of the**  
53 **following:**

54           **(a) Mains, [and associated] valves [and], hydrants, service lines, and**  
55 **meters, collecting sewers (including force lines, gravity sewers,**  
56 **interceptors, laterals, trunk sewers, manholes, lampholes, and**  
57 **necessary appurtenances, including service wyes), lift stations, and**  
58 **pressure pumps installed as replacements for existing facilities that have worn**  
59 **out or are in deteriorated condition or replaced as part of a commission**  
60 **order, or the replacement of any of the forms of plant utility named in**  
61 **this paragraph with improved technology;**

- 62 (b) Main **and collecting sewer** cleaning and relining projects; [and]  
63 (c) Facilities relocations required due to construction or improvement of  
64 a highway, road, street, public way, or other public work by or on behalf of the  
65 United States, this state, a political subdivision of this state, or another entity  
66 having the power of eminent domain provided that the costs related to such  
67 projects have not been reimbursed to the water **or sewer** corporation; **and**  
68 **(d) Energy efficiency projects.**

393.1003. 1. Notwithstanding any provisions of chapter 386, RSMo, and  
2 this chapter to the contrary, as of August 28, [2003] **2013**, a water **or sewer**  
3 corporation [providing water service in a county with a charter form of  
4 government and with more than one million inhabitants] may file a petition and  
5 proposed rate schedules with the commission to establish or change ISRS rate  
6 schedules that will allow for the adjustment of the water **or sewer** corporation's  
7 rates and charges to provide for the recovery of costs for eligible infrastructure  
8 system replacements [made in such county with a charter form of government  
9 and with more than one million inhabitants;], provided that an ISRS[, on an  
10 annualized basis,] must produce ISRS revenues of at least one million dollars, **on**  
11 **an annualized basis**, but not in excess of ten percent **over a three year**  
12 **period** of the water corporation's base revenue level approved by the commission  
13 in the water **or sewer** corporation's most recent general rate proceeding **for a**  
14 **water or sewer corporation, or ten percent over a three year period of**  
15 **a small sewer corporation or small water corporation's base revenue as**  
16 **defined in section 393.146.** An ISRS and any future changes thereto shall be  
17 calculated and implemented in accordance with the provisions of sections  
18 393.1000 to 393.1006. ISRS revenues shall be subject to refund based upon a  
19 finding and order of the commission, to the extent provided in subsections 5 and  
20 8 of section 393.1006.

21 2. The commission shall not approve an ISRS for a water **or sewer**  
22 corporation [in a county with a charter form of government and with more than  
23 one million inhabitants] that has not had a general rate proceeding decided or  
24 dismissed by issuance of a commission order within the past three years, unless  
25 the water **or sewer** corporation has filed for or is the subject of a new general  
26 rate proceeding **or has instead used the commission's small company rate**  
27 **request process.**

28 3. In no event shall a water **or sewer** corporation collect an ISRS for a  
29 period exceeding three years unless the water **or sewer** corporation has filed for

30 or is the subject of a new general rate proceeding; provided that the ISRS may be  
31 collected until the effective date of new rate schedules established as a result of  
32 the new general rate proceeding, or until the subject general rate proceeding is  
33 otherwise decided or dismissed by issuance of a commission order without new  
34 rates being established.

35 **4. As of August 28, 2019, the provisions of this section shall only**  
36 **apply to a water or sewer corporation in a county with a charter form**  
37 **of government and with more than one million inhabitants.**

✓  
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